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OCT 26 PM 1:36

Nancy Bourke
5585 Los Capanos Drive
Sierra Vista, AZ 85635
(302) 792-7999 (cell)
nbourke36@gmail.com

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

In re: the Marriage of:

ROGER CONTRERAS,

Petitioner,

and

NANCY BOURKE,

Respondent.

) Case No. DO200901390/OV20141390

)
) PETITION FOR ENFORCEMENT OF
) CHILD SUPPORT / PETITION FOR
) CONTEMPT / REQUEST FOR ORDER TO
) APPEAR / REQUEST FOR
) REIMBURSEMENT OF OVERPAID CHILD
) SUPPORT

) (A.R.F.L.P. 92)

) (Estimated time for hearing = 30 minutes)

) Hon. Geoffrey L. Ferlan

) Division VII

25-527

COMES NOW, the Respondent, Nancy Bourke, and hereby moves this Court for an Order enforcing the terms of its March 5, 2018 Order Re: Motion for Modification of Child Support, and for reimbursement of overpaid child support. The facts are as follows:

1. On March 5, 2018, this Court ordered Petitioner, Roger Contreras, to pay \$106.00/month as and for support of the parties' minor child, commencing January 1, 2018. The Order specified that Petitioner must directly pay to the Clearinghouse any amounts not paid by his employer pursuant to an Income Withholding Order ("IWO").
2. The IWO resulted in only three months' worth of payments being withheld from Petitioner's pay. Petitioner has made no effort to directly pay any amount not

1 withheld pursuant to the IWO. *See* Exhibit A, attached hereto. As of the date of this
2 Petition, Petitioner has only paid three out of eight monthly payments.¹

3 3. On May 14, 2018, this Court denied Respondent's Motion for Stay of these
4 proceedings and set Petitioner's Motion to Set Aside Child Support Order for
5 hearing on June 25, 2018. That hearing was continued to October 30-31, 2018, on
6 June 19, 2018. *See* Minute Entries dated May 14, 2018 & June 19, 2018. At no
7 time was Petitioner permitted to ignore this Court's March 5, 2018 Order to support
8 his child while his Motion to Set Aside remained pending. In fact, this Court
9 indicated to Petitioner on May 14, 2018, that it found Petitioner's Motion to Set
10 Aside Order disingenuous.² Under the same reasoning, Petitioner has not attempted
11 to keep Respondent from exercising parenting time while his Petitions to end that
12 time remain pending.
13

14 4. Similarly, Respondent met her duty to support the parties' minor child while
15 awaiting the Court's ruling on her Motion to Modify Child Support. Specifically,
16 Respondent's payment that would have been due January 1, 2018 cleared her bank
17 account on December 29, 2017. Exhibit B, at p.1. Her February, 2018 payment
18 cleared her bank account on January 29, 2018. *Id.*, at p.2. These payments were
19 made while awaiting the Court's March 5, 2018 Order and resulted in Respondent
20
21
22

23
24 ¹ The Annual Payment Record is only updated on a monthly basis. However, as of the date of this
Petition, no payment has been made for August, 2018, either.

25 ² Respondent is awaiting this Court's ruling on her July 26, 2018 Application for Deferral or Waiver of
Fees or Costs. Waiver of the fees requested therein would enable Respondent to obtain a transcript of
26 the May 14, 2018 hearing at which the Court indicated its feelings about Petitioner's Motion to Set
Aside Child Support Order.

KD

1 overpaying child support in the amount of \$180.00 and Clearinghouse fees in the
2 amount of \$10.00.

3
4 5. On August 14, 2018, Respondent requested an arrears calculation from the child
5 support clerk who processed the March 5, 2018 Order and the IWO. Exhibit C. The
6 next day, Respondent supplemented her request to the deputy clerk by asking for an
7 official calculation of her overpayment of child support. *Id.* No response has yet
8 been received. The official payment history will be particularly important regarding
9 Respondent's overpayment of child support because Respondent has remained self-
10 employed throughout the entire term of the orders requiring her to pay support to
11 Petitioner (never subject to an IWO), Respondent frequently paid child support well
12 in advance of the due date, and the online record only dates back to January, 2016.
13 These factors all resulted in an erratic overall annual payment record when
14 Respondent was the payor. Exhibit D. On the other hand, the payment record
15 showing Petitioner as payor accurately reflects that he has only recently been made
16 the obligor again, and that only three months' worth of payments were ever made to
17 Respondent pursuant to the 2018 child support order. Exhibit A.

18
19 6. On August 14, 2018, Respondent requested waiver of service of this Petition
20 through his counsel, then through Petitioner, directly. Neither party responded to
21 the request. Exhibit E.

22
23 7. Interest has been accruing on the amounts Petitioner has failed to pay in accordance
24 with A.R.S. §25-320 (Guidelines) at ¶28 ("When setting an amount for a payment
25 on arrears, the court should take into consideration that interest accrues on the
26 principal balance.").

1 8. Respondent's July 26, 2018 Notice of Service indicated that Respondent served
2 Petitioner another blank Affidavit of Financial Information. Service of a blank AFI
3 is required by A.R.F.L.P. 91(C). Petitioner is required to respond with the
4 completed AFI, and all materials in Rule 91(C)(1) – (4).
5

6 9. Respondent cannot afford counsel³, the filing fee, the fee for service of process, or
7 any other costs or fees at this time, due to the outrageous amount of fees and costs
8 she has incurred in the past year while responding to Petitioner's various post-decree
9 Petitions. Respondent therefore anticipates that the clerk will refuse to file this
10 document and it will sit unattended while Respondent awaits the court's orders on
11 her request for deferral or waiver of fees, filed August 14, 2018.
12

13 WHEREFORE, Respondent MOVES the Court to:

14 A. Rule forthwith on Respondent's August 14, 2018 Request for Waiver of filing
15 fees and service costs for this Petition so that Respondent has access to this Court;

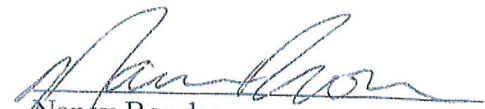
16 B. Execute the Order to Appear regardless of whether Petitioner responds to this
17 Petition, setting an evidentiary hearing on a date other than October 30 & 31, 2018, during
18 which Petitioner's various requests to terminate all personal contact between mother and child
19 will be addressed through respective counsel, though Respondent cannot afford representation
20 for this contempt petition;
21

22 ³ Respondent recently paid/borrowed a total of \$12,000.00 more to again retain counsel to represent her
23 for the October 30-31, 2018 hearings. These payments were made on top of all the prior attorney's fees
24 and costs paid since September, 2017 in this matter. However, that \$12,000.00 flat fee does not cover
25 this Petition. The additional \$12,000.00 in fees precludes Respondent's ability to financially care for
26 herself and her children, let alone to pursue this Petition through counsel. Respondent requests this
Court address the Petition as though she was represented, however, on equal footing with Petitioner,
whose Petitions presented through counsel are swiftly and consistently addressed by this Court.
Petitioner should not be rewarded for his contempt and intentional impoverishment of Respondent yet
again by this Court again ignoring Respondent's pleas to be heard, even though she cannot afford
counsel.

inf

- 1 C. After hearing, find Petitioner in contempt of this Court's March 5, 2018 Order;
2 D. After hearing, enforce the March 5, 2018 Order, and set an amount for payment
3 on arrears, after taking into account the interest that continues to accrue on the unpaid balances;
4 E. Order Petitioner to pay any / all attorney's fees and costs that Respondent pays
5 in association with this Petition, and make all further appropriate orders under A.R.F.L.P.
6 92(E);
7 F. Order Petitioner to repay to Respondent \$190.00 for overpaid child support and
8 clearinghouse fees Respondent paid while awaiting this Court's March 5, 2018 Order, plus
9 interest;
10 G. Order any further relief this Court deems appropriate.

11
12 RESPECTFULLY SUBMITTED this 15th day of August, 2018.

13
14
15 
16 Nancy Bourke
Respondent Pro Per

17 Original/copy of the foregoing delivered this 15th day of August, 2018 to:

18 Cochise County Clerk of the Superior Court

19 Division 59(J) via fax to (520) 724-3082

20 Copy to be served on Petitioner when Respondent is afforded the financial means to effect
21 service
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VERIFICATION

NANCY BOURKE, being first duly sworn, states the following upon oath: I am the Respondent in DO200901390. I have read the Petition for Enforcement of Child Support / Petition for Contempt / Request for Order to Appear / Request for Reimbursement of Overpaid Child Support I know the contents thereof, and that the matters and things alleged therein are true in substance and in fact, except for those matters alleged upon information and belief, and as to those allegations, I believe them to be true.

DATED this 15th day of August, 2018.


NANCY BOURKE

SUBSCRIBED AND SWORN TO BEFORE ME this 15th day of August, 2018.


Deputy Clerk

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EXHIBIT A

ANNUAL PAYMENT RECORD FOR ATLAS CASE # 001124083100 (1 PAGE)

Chris DeRose

Clerk of the Superior Court

Maricopa County, Arizona

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Annual Payment Record

Court Order #: DO200901390 ATLAS Case #: 001124083100 Date: 8/7/2018

Payor: ROGER CONTRERAS

Payee: NANCY BOURKE

[Payment History Requests](#)[Payment Research](#)[Purge Payments](#)

| Month | 2016 | 2017 | 2018 |
|---------------------|--------|--------|----------|
| January | \$0.00 | \$0.00 | \$0.00 |
| February | \$0.00 | \$0.00 | \$0.00 |
| March | \$0.00 | \$0.00 | \$0.00 |
| April | \$0.00 | \$0.00 | \$55.50 |
| May | \$0.00 | \$0.00 | \$156.50 |
| June | \$0.00 | \$0.00 | \$106.00 |
| July | \$0.00 | \$0.00 | \$0.00 |
| August | \$0.00 | \$0.00 | \$0.00 |
| September | \$0.00 | \$0.00 | \$0.00 |
| October | \$0.00 | \$0.00 | \$0.00 |
| November | \$0.00 | \$0.00 | \$0.00 |
| December | \$0.00 | \$0.00 | \$0.00 |
| TOTAL CHILD SUPPORT | \$0.00 | \$0.00 | \$318.00 |
| TOTAL FEES PAID | \$0.00 | \$0.00 | \$15.00 |

[Frequently Asked Questions](#)

This data is current thru: July 31, 2018

For more information, please contact:

Honorable Mary Ellen Dunlap
 COCHISE County Clerk of the Superior Court
 Child Support Section
 P.O. Box CK
 Bisbee, AZ 85603
 Phone: 1-520-432-8600
 Fax: 1-520-432-4850

1. Use the ATLAS case number when making payments or payment inquiries-remit payments to:
 CLEARINGHOUSE
 PO BOX 52107
 Phoenix, AZ 85072-2107
2. TOTAL CHILD SUPPORT includes the total monthly payments of child support, spousal maintenance and/or arrearage payments.

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EXHIBIT B

**PROOF OF TWO MONTHLY OVERPAYMENTS UNDER ATLAS #001203273700 (2
PAGES)**

Redacted

Payment Clearing **\$95.00**

FOR DEPOSIT ONLY

12/29/17

Processed 12/29/17 \$95.00 Ch# 029

Account: N/A PLEASE POST THIS PAYMENT FOR OUR MUTUAL CUSTOMER

Pay ONE HUNDRED AND 00/100 **\$100.00**

TO THE ORDER OF ROGER CONTRERAS
4450 DESERT SPRINGS TRL
SANTA VISTA, AZ 85635-3617

Valid After 150 DAYS
Signature On File
This check has been authorized
by your signature

Processed 12/22/17 \$100.00 Ch# 5004

Redacted

Nancy Bonko, Esq.
Criminal Defense and Family Attorney
5685 Los Capanos Drive
Sierra Vista, AZ 85635
(520) 792-7990

DATE 1/12/18

PAY Nancy Bonko \$100.00
TO THE ORDER OF Chester Lindquist DOLLARS 00

National Bank of Arizona
2500 Broadway, Sierra Vista, AZ 85635

FOR DEPOSIT ONLY 79

11221053201 5744640262 0030

Processed 01/24/18 \$100.00 Ch# 030

Account: 001203273700 11221053201 PAYMENT FOR ORA MYNVAL OUTSIDE \$95.00

PLEASE DIRECT ANY QUESTIONS TO
CREDIT RITE Payment Processing Center
1100 24-200

0000008008

January 20, 2018

28, N.A. 000 NATIONAL BANK OF AR

Pay NINETY FIVE AND 02/100 DOLLARS \$ *****95.00

TO: SUPPORT CLEANING HOUSE
PO BOX 92107
PHOENIX, AZ 85072-2107

ORDER OF 11221053201 5744640262 734 0000009500

Valid After: 180 DAY
Signature On File
This check has been validated
by your depositor

Processed 01/29/18 \$95.00 Ch# 5005

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EXHIBIT C

**ELECTRONIC MAIL BETWEEN RESPONDENT AND DEPUTY CLERK SPROULE
DATED AUGUST 14-15, 2018 (2 PAGES)**

DO200901390**Nancy Bourke** <nbourke36@gmail.com>

To: "Sproule, Cynthia" <CSproule@courts.az.gov>

Bcc: nbourke36 <nbourke36@gmail.com>

Wed, Aug 15, 2018 at 12:01 PM

Actually, I should ask for a calculation for my ATLAS # from back when I was the one paying child support, also. That ATLAS # is 001203273700 . Please let me know the cost for both calculations.

Thanks,

Nancy Bourke, Esq.
4036 La Linda Way
Suite C
Sierra Vista, AZ 85635
(520) 335-8762 (main office)
(520) 335-8763 (office)
(520) 335-8764 (fax)

www.bourkelawfirm.com

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On Tue, Aug 14, 2018 at 1:06 PM Nancy Bourke <nbourke36@gmail.com> wrote:

I'm going to go ahead and ask the court to enforce child support. Do you do arrearage calculations since you are the one in charge of child support orders and such? If so, what is the cost and does this email suffice to ask you to do the calculation? If not you, who does those within the clerk's office (our case is non-IV-D).

Thanks again!

Nancy Bourke, Esq.
4036 La Linda Way
Suite C
Sierra Vista, AZ 85635
(520) 335-8762 (main office)
(520) 335-8763 (office)
(520) 335-8764 (fax)

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On Tue, Aug 14, 2018 at 11:46 AM Sproule, Cynthia <CSproule@courts.az.gov> wrote:

Hi Nancy,

No. I have not received any new information for Roger.

From: Nancy Bourke <nbourke36@gmail.com>
Sent: Tuesday, August 14, 2018 11:36 AM
To: Sproule, Cynthia <CSproule@courts.az.gov>
Subject: DO200901390

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello again,

Did Roger Contreras submit a change of employment to you or the clerk's office, generally? He hasn't paid child support in a long time. Thanks,

Nancy Bourke, Esq.

4036 La Linda Way

Suite C

Sierra Vista, AZ 85635

(520) 335-8762 (main office)

(520) 335-8763 (office)

(520) 335-8764 (fax)

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EXHIBIT D

ANNUAL PAYMENT RECORD FOR ATLAS CASE # 001203273700 (1 PAGE)

Chris DeRose

Clerk of the Superior Court
Maricopa County, Arizona

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Annual Payment Record

Court Order #: DO200901390 ATLAS Case #: 001203273700 Date: 8/15/2018

Payor: NANCY BOURKE

Payee: ROGER CONTRERAS

[Payment History Requests](#)

[Payment Research](#)

[Purge Payments](#)

[Frequently Asked Questions](#)

| Month | 2016 | 2017 | 2018 |
|---------------------|----------|------------|---------|
| January | \$990.00 | \$125.00 | \$90.00 |
| February | \$0.00 | \$180.00 | \$0.00 |
| March | \$0.00 | \$0.00 | \$0.00 |
| April | \$0.00 | \$265.00 | \$0.00 |
| May | \$0.00 | \$70.00 | \$0.00 |
| June | \$0.00 | \$0.00 | \$0.00 |
| July | \$0.00 | \$90.00 | \$0.00 |
| August | \$0.00 | \$90.00 | \$0.00 |
| September | \$0.00 | \$0.00 | \$0.00 |
| October | \$0.00 | \$170.00 | \$0.00 |
| November | \$0.00 | \$90.00 | \$0.00 |
| December | \$0.00 | \$90.00 | \$0.00 |
| TOTAL CHILD SUPPORT | \$990.00 | \$1,170.00 | \$90.00 |
| TOTAL FEES PAID | \$5.00 | \$115.00 | \$5.00 |

This data is current thru: July 31, 2018

For more information, please contact:

Honorable Mary Ellen Dunlap
COCHISE County Clerk of the Superior Court
Child Support Section
P.O. Box CK
Bisbee, AZ 85603
Phone: 1-520-432-8600
Fax: 1-520-432-4850

1. Use the ATLAS case number when making payments or payment inquiries-remit payments to:
CLEARINGHOUSE
PO BOX 52107
Phoenix, AZ 85072-2107

2. TOTAL CHILD SUPPORT includes the total monthly payments of child support, spousal maintenance and/or
arrearage payments.

<http://familysupportcenter.maricopa.gov/DES/extendedhistory.asp?txtCaseNumber=001203273700&txtzipCode=85635>

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EXHIBIT E

**ELECTRONIC MAIL TO PETITIONER'S COUNSEL'S OFFICE, AS WELL AS TO
PETITIONER, DATED AUGUST 14, 2018 (1 PAGE)**

Gmail

Nancy Bourke <nbourke36@gmail.com>

accept service? DO200901390

Nancy Bourke <nbourke36@gmail.com>

To: Debbie <legalasst4pahl@gmail.com>, "Roger H. Contreras" <rhogur@gmail.com>

Bcc: nbourke36 <nbourke36@gmail.com>

Tue, Aug 14, 2018 at 12:14 PM

I realized I should also ask Roger this question, directly, in case you will not be representing him for purposes of child support contempt. He is copied here.

Nancy Bourke, Esq.
4036 La Linda Way
Suite C
Sierra Vista, AZ 85635
(520) 335-8762 (main office)
(520) 335-8763 (office)
(520) 335-8764 (fax)

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On Tue, Aug 14, 2018 at 10:25 AM Nancy Bourke <nbourke36@gmail.com> wrote:
Hi Dana,

I am about to file a Petition for Contempt / Motion to Enforce child support. Will your office accept service or will you require personal service upon Roger?

I will request service fees be ordered on top of the relief requested in the petition if your office or Roger does not waive formal service.

Thanks,

Nancy Bourke, Esq.
4036 La Linda Way
Suite C
Sierra Vista, AZ 85635
(520) 335-8762 (main office)
(520) 335-8763 (office)
(520) 335-8764 (fax)

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